



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Orthopaedic Associates LLP

Respondent Name

Texas Mutual Insurance

MFDR Tracking Number

M4-15-0293-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

September 19, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "...it is our position that due to the emergent nature of the treatment, the Hospital is entitled to reimbursement."

Amount in Dispute: \$8,714.04

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The requestor performed surgery on the date above without preauthorization. The documentation does not substantiate a medical emergency."

Response Submitted by: Texas Mutual Insurance

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 7, 2014	22849, 22830, 72100	\$8,714.04	\$4,327.77

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.2 defines emergency as related to medical billing and processing
3. 28 Texas Administrative Code §134.203 sets out the reimbursement guidelines for professional medical services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 197 – Precertification/authorization/notification absent
 - 193 – Original payment decision is being maintained

Issues

1. Did the requestor support that exception to prior authorization exists?
2. What is the rule(s) applicable to reimbursement?

3. Is the requestor entitled to reimbursement?

Findings

1. The Carrier states in their position statement, "... the documentation does not substantiate a medical emergency." Per 28 Texas Administrative Code §133.2 (5) Emergency--Either a medical or mental health emergency as follows: (A) a medical emergency is the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in: (i) placing the patient's health or bodily functions in serious jeopardy, or (ii) serious dysfunction of any body organ or part; Review of the submitted medical records finds;
 - a. The Office visit record from March 5, 2014 states, "Posteriorly, the L4 screws have migrated posteriorly. The left side appears to be encroaching on the endplate. There has been a definite change from his initial postop films."
 - b. Operative report from March 7, 2014 states, "A CT scan was performed, which confirmed that the screws backed up..."

The Division finds that based on the results of the CT scan that confirmed that the screws back up, an emergent situation existed. Therefore the services in dispute will be reviewed per applicable rules and fee guidelines.

2. Per 28 Texas Administrative Code §134.600 (c) The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care: (1) listed in subsection (p) or (q) of this section only when the following situations occur: (A) an emergency, as defined in Chapter 133 of this title (relating to General Medical Provisions);" The Division finds the Carrier is liable for the services related to the emergency and the services in dispute will be calculated as follows. 28 Texas Administrative Code §134.203 (c) states in pertinent part, "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is 55.75 (date of service yearly conversion factor). For Surgery when performed in a facility setting, the established conversion factor to be applied is \$69.98 (yearly conversion factor). The maximum allowable reimbursement is calculated as follows;
 - Procedure code 22849, service date March 7, 2014, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is multiplied by the Division conversion factor of \$69.98 / divided by Medicare Conversion Factor of \$35.8228f or a MAR of \$2,666.38.
 - Procedure code 22830, service date March 7, 2014, represents a professional service with reimbursement determined per §134.203(c). Medicare pays for multiple surgeries by ranking from the highest MPFS amount to the lowest MPFS amount. When the same physician performs more than one surgical service at the same session, the allowed amount is 100% for the surgical code with the highest MPFS amount. The allowed amount for the subsequent surgical codes is based on 50% of the MPFS amount. This procedure will be reimbursed at 50%. The Medicare fee is multiplied by the Division conversion factor of \$69.98 / divided by Medicare Conversion Factor of \$35.8228 for a MAR of \$1,627.39.
 - Procedure code 72100, service date March 7, 2014, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee by the Division conversion factor of \$39.98 / divided by Medicare Conversion Factor of \$35.8228 for a MAR of \$68.96. Per §134.203(h), reimbursement is the lesser of the MAR or the provider's usual and customary charge. The lesser amount is \$34.00.
3. The total allowable reimbursement for the services in dispute is \$4,327.77. This amount less the amount previously paid by the insurance carrier of \$0.00 leaves an amount due to the requestor of \$4,327.77. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$4,327.77.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$4,327.77 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

April 16, 2015
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.